

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

Plaintiff,

v.

WAYNER BLACK,

Defendant.

ORDER

09-cr-108-bbc
14-cv-304-bbc

Defendant Wayner Black has filed a second motion for post conviction relief under 28 U.S.C. § 2255, contending that his counsel was ineffective. He filed his first motion for post conviction relief on June 11, 2012; it was denied on June 27, 2012. On December 9, 2013, defendant filed a “Petition for Reconsideration,” asking this court to allow him to file a second motion under 28 U.S.C. § 2255. As I explained to defendant at that time, this court has no authority to entertain a second motion for post conviction relief unless he obtains certification from a panel of the Court of Appeals for the Seventh Circuit. 28 U.S.C. § 2255 ¶8. He has not obtained the necessary certification, so his motion must be dismissed without consideration of its timeliness or the merits of the claim.

It is probably unnecessary to consider the question of issuing a certificate of

appealability. To complete the record, however, I find under Rule 11 of the Rules Governing Section 2255 Proceedings, that defendant has not made a "substantial showing of the denial of a constitutional right," 28 U.S.C. § 2253(c)(2); Tennard v. Dretke, 542 U.S. 274, 282 (2004), so no certificate will issue.

In light of defendant's persistence in filing legally frivolous documents that impede the court's ability to address filings that deserve its attention, I am imposing a filing restriction on defendant. From this date forward, before the clerk files any document defendant files in this case, he is to forward the document to chambers. If the document is one in which defendant raises non-meritorious issues or seeks frivolous forms of relief or is otherwise not a document permitted to be filed under the Federal Rules of Civil or Appellate Procedure at this stage of defendant's case, the document will be placed in the file and no response will be made to it.

ORDER

IT IS ORDERED that defendant Wayner Black's motion for post conviction relief under 28 U.S.C. § 2255 is DISMISSED for lack of jurisdiction. No certificate of appealability shall issue.

Further, IT IS ORDERED that the clerk is to forward to chambers before filing any

future document defendant files in this case. If the document raises non-meritorious issues or seeks frivolous forms of relief or is otherwise not a document permitted to be filed under the Federal Rules of Civil or Appellate Procedure at this stage of defendant's case, the document will be placed in the file and no response will be made to it.

Entered this 28th day of April, 2014.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge